

STATE OF WASHINGTON
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

INTERNATIONAL ASSOCIATION)	
OF FIRE FIGHTERS, LOCAL 2394,)	
)	CASE 17204-U-03-4452
Complainant,)	
)	DECISION 8526 - PECB
vs.)	
)	
CITY OF SHELTON,)	
)	
Respondent.)	ORDER OF DISMISSAL
)	
)	

On February 14, 2003, International Association of Fire Fighters, Local 2394 (union) filed a complaint charging unfair labor practices with the Public Employment Relations Commission under Chapter 391-45 WAC, naming the City of Shelton (employer) as respondent. The complaint was reviewed under WAC 391-45-110,¹ and a preliminary ruling, issued on April 8, 2003, found a cause of action to exist on allegations summarized as:

Employer refusal to bargain in violation of RCW 41.56.140(4), [and if so, derivative "interference" in violation of RCW 41.56.140(1)], by breach of its good faith bargaining obligations in withdrawing tentative agreements and making regressive proposals concerning sections 12.1.1, 12.1.4 and 12.2.4 involving medical and vision insurance.

¹ At that stage of the proceedings, all of the facts alleged in the complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practices proceedings before the Public Employment Relations Commission.

This and an unfair labor practice case filed by the employer, Case 17475-U-03-4529, were consolidated because they involved the same set of negotiations. Separately, the Executive Director initiated the interest arbitration process for the parties' negotiations. Case 17266-I-03-400.

A hearing on the unfair labor practice cases was scheduled for October 15, 2003. By way of a telephone message left on September 10, 2003, the employer's representative, Michael Meglemre, notified the Examiner that the parties had resolved the issues raised in their respective unfair labor practice complaints, and that both parties would be withdrawing their complaints.

On September 12, 2003, the employer filed a written withdrawal of its complaint. An order was issued to close that case.

On September 16, 2003, the union's representative, Mike Sobotka filed a letter with the Examiner stating:

Re: City of Shelton Interest Arbitration
PERC Case No. 17266-I-03-0400

This correspondence is to formally notify you that the city of Shelton and IAFF Local 2394 have reached agreement on all issues. Accordingly, this complaint of unfair labor practice and all collateral motions are hereby withdrawn.

The union's letter was ambiguous, because only the interest arbitration proceeding was identified by case number while the text indicated an intent to withdraw an unfair labor practice complaint. The Examiner attempted to clarify the union's intentions by means of a telephone call on September 30, 2003, but Sobotka was not available. The Examiner left a voice-mail message at that time, asking Sobotka to clarify the union's intentions.

No response to the voice-mail message was received and, by letter dated November 17, 2003, the Examiner gave the union written notice of the ambiguity concerning the withdrawal of the subject unfair labor practice complaint. The Examiner further notified the union that, absent a good cause showing within the next 14 days, the unfair labor practice complaint would be dismissed for lack of prosecution. Nothing further has been heard from the union.

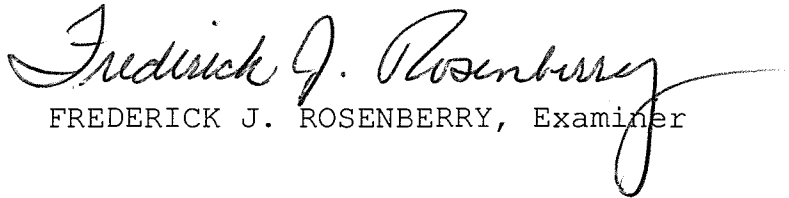
NOW, THEREFORE, it is

ORDERED

The complaint charging unfair labor practices in the above entitled matter is hereby DISMISSED.

Dated at Olympia, Washington, this 28th day of April, 2004.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


FREDERICK J. ROSENBERY, Examiner

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.